

HIGH COURT OF UTTARANCHAL AT NAINITAL

C-482 NO. 1060 OF 2006

Jwala Prasad,
S/o Umrao Singh,
R/o -373, Type-2,
Sector-4, BHEL,
Ranipur, Haridwar
District-Haridwar. Applicant.

Vs.

1. State of Uttaranchal
2. IInd Additional Civil Judge (J.D.)/J.M.,
District-Haridwar.
3. Brijmohan Singh, S/o Jugmohan Singh,
R/o W-21B, Workers Hostel, Sector-2,
BHEL, Ranipur, District-Haridwar,
4. J.P. Chauhan,
R/o House No. 103, Shri Ram Nagar,
Jwalapur, Police Station-Jwalapur,
District-Haridwar. Opposite Parties

Hon'ble Rajesh Tandon, J.

Heard Sri Nagesh Agarwal, counsel for the applicant
and A.G.A. for the State.

2. By the present application filed under Section 482
of the Code of Criminal Procedure, the applicant has
sought following relief:

"It is, therefore, most respectfully prayed that this Hon'ble Court may graciously be pleased to quash the entire criminal proceeding & also be pleased to set aside the impugned summoning order of cognizance dated 06-2-2006 passed by the Learned opposite party no. 2, in criminal complaint case no. 929 of 2006 Brijmohan Singh V/s Jwalaprasad 138 of Negotiable Instrument Act, Police Station-Ranipur, District-Haridwar, pending against the applicant in the learned court of opposite party no. 2.

It is, further most respectfully prayed that this Hon'ble Court may also graciously be pleased to stay the further proceeding of criminal complaint case No.929 of 2006 Brijmohan Singh V/s. Jwalaprasad 138 of Negotiable Instrument Act, Police Station-Ranipur, District-Haridwar, pending in the Learned Court of opposite party no. 2 and/or also be pleased to pass any such order which this Hon'ble Court may deem fit and proper in the facts and circumstances of the case during the pendency of the present case in this Hon'ble Court."

3. The short grievance of the applicant is that the cheque has not been encashed and as such the notice was given to pay the certain amount within 15 days and thereafter, complaint has been filed.

4. Since the matter requires investigation and hearing on the basis of oral and documentary evidence and as such no interference under Section 482 of the Code of Criminal Procedure is required so as to short circuit the trial.

5. In ***Medchl Chemicals and Pharma (P) Ltd. v. Biological E. Ltd. and others*** (2003) 3 SCC 269. the apex Court has been observed as under.

"19. Considering the factual aspect of the matter, we unhesitatingly state, however, that the issue involved in the matter under consideration is not a case in which the criminal trial should have been short-circuited. We, thus, without expressing any opinion on the merits of the case allow the appeal and set aside the impugned order of the High Court and restore the complaint. The learned trial Magistrate shall proceed with the complaint and dispose of the same in accordance with law with utmost expedition. Be it clarified however that observations as above in this judgment be not taken as an expression of any opinion of ours."

6. Since it is complaint case, therefore, it is relevant to quote following portion of ***Smt. Husna and others v. State of U.P. and others*** [2006 (56) ACC 659]:

"7. The petition is finally disposed of with the direction to the petitioners to appear before the Court concerned within 15 days of passing of this order and if they do so, the Court will permit them to file appearance bonds to his satisfaction for their regular appearance in the case."

7. In view of the aforesaid the applicant is directed to present himself before the Magistrate concerned and ensure his presence by furnishing personal bonds to the satisfaction of the Magistrate concerned for his regular appearance in the case.

8. Subject to the observations made above, application under Section 482 Cr.P.C. lacks merit and is dismissed.

(Rajesh Tandon, J.)

22nd December, 2006
Rathour